

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

PIKE ELECTRIC, LLC,

Plaintiff,

v.

CIVIL ACTION NO. 5:14-cv-00373

JUSTICE LOW SEAM MINING, INC.,

Defendant.

ORDER

The Court has reviewed the *Plaintiff's Motion for Default Judgment Against Defendant Justice Low Seam Mining, Inc.* (Document 8), the attached exhibits,¹² and the accompanying memorandum in support (Document 9), all filed on February 11, 2014. The Court has also reviewed the Clerk's entry of *Default* (Document 11), filed on February 18, 2014. In its motion and memorandum, the Plaintiff states that it filed suit on January 6, 2014, and that the summons was accepted for service of process by the West Virginia Secretary of State on January 9, 2014, and returned executed on January 15, 2014. (Document 9.) The Plaintiff maintains that as of February 11, 2014, the Defendant had failed to appear, plead, or otherwise defend in this matter. (*Id.*) The Court has reviewed the docket in this matter and has uncovered no appearance, pleading, or other indication of defense or action on behalf of the Defendant to date.

1 The Plaintiff attached detailed proof of service from the Secretary of State's office (Exhibit A, Document 8-1) and an affidavit from Timothy Harshbarger, Senior Vice President of Human Resources at Pike Corporation (Exhibit B, Document 8-2).

2 This is an action to enforce a final arbitration award granting Pike Electric damages of \$421,078.10, plus fees and interest. (*See* Compl. ¶¶ 5–13) (Document 1.) The Plaintiff attached the arbitration award to its complaint as Exhibit A. (Document 1-1.)


With respect to the amount of judgment requested, the Plaintiff asserts that it is entitled to “collect an award issued under binding arbitration in the amount of \$421,078.10, along with administrative fees in the amount of \$8,925.00, plus interest accruing at the legal rate of 8% from December 19, 2013.” (*Id.* ¶ 13.) An affidavit from Timothy Harshbarger (Document 8-2) supports a judgment in that amount, as does the arbitration award (Document 1-1). The Plaintiff seeks judgment pursuant to Rule 55(b)(1), which provides:

If the plaintiff’s claim is for a sum certain or a sum that can be made certain by computation, the clerk—on the plaintiff’s request, with an affidavit showing the amount due—must enter judgment for that amount and costs against a defendant who has been defaulted for not appearing and who is neither a minor nor an incompetent person.

In accordance with Federal Rule of Civil Procedure 55(b) (1–2), the Court **ORDERS** that the *Plaintiff’s Motion for Default Judgment Against Defendant Justice Low Seam Mining, Inc.* (Document 8) be **GRANTED**. The Court **ORDERS** that the arbitration award (attached to the Complaint as Exhibit A) be enforced against the Defendant, Justice Low Seam Mining, Inc., and that default judgment be entered in the amount of **\$421,078.10, plus 8% interest accruing from December 19, 2013, plus \$8,925.00 in administrative fees**, in accordance with the arbitration award.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and to any unrepresented party.

ENTER: February 25, 2014


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA